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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/691,817 | 10/23/2003 | Scott Temovits | 010394-9088-00 | 6307 |

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| EXAMINER |
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HOGUE, GARY CHAPMAN

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| ART UNIT | PAPER NUMBER |
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3611

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/691,817 | Applicant(s) TERNOVITS ET AL. | |
| | Examiner Gary C. Hoge | Art Unit 3611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-25 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recites both a footer and a bottom brace extending from each of the first and second panels. But this contradicts the Specification, which discloses a single footer attached to the third panel, and bottom braces attached to the first and second panels.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrock (2,718,091).

See Figs. 3-6. Schrock discloses a portable display device comprising a first panel 14 having a front surface and a rear surface; a second panel 13 movably coupled to the first panel and having a front surface and a rear surface, the first and second panels movable between a manufactured position (Fig. 4) in which the first and second panels are substantially coplanar, and an operative position (Fig. 5) in which the first and second panels are angled with respect to

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one another; and a marquee surface 17 integral with the first and second panels such that when the first and second panels are in the manufactured position, the marquee surface is substantially coplanar with the first and second panels, and when the first and second panels are in the operative position, the marquee surface can be pushed out of the plane and project away from the first and second panels; wherein at least a portion of the marquee surface is positioned below a top of the display device when the marquee surface is in the manufactured position.

Regarding claim 2, Schrock discloses a third panel 10.

Regarding claim 3, see Fig. 6.

Regarding claims 5 and 6, Schrock discloses deforming an area by scoring it to form fold lines.

5. Claims 11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kellog (1,583,843).

Kellog discloses a portable display device comprising a first panel F; a second panel F; a third panel C coupled between the first panel and the second panel such that the first panel is movably coupled to the third panel and the second panel is movably coupled to the third panel, each of the first, second, and third panels having a front surface and a rear surface, the first and second panels movable between a manufactured position (Fig. 2) in which the first and second panels are substantially coplanar with the third panel, and an operative position (Fig. 1) in which the first and second panels are angled with respect to the third panel; and a footer E integral with and movably coupled to the third panel, the footer being oblique to the third panel when the first and second panels are in the operative position (see Fig. 3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrock (2,718,091) in view of Schirer (5,960,848).

Schrock discloses the invention substantially as claimed, as set forth above. However, the edges of the panels disclosed by Schrock are not curved. Schirer teaches that it was known in the art to curve the edges of cardboard panels, in order to protect users from being jabbed by a sharp edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the edges of the cardboard panels disclosed by Schrock rounded, as taught by Schirer, in order to protect users from being jabbed by a sharp edge. Further, it is noted that in Applicant's invention, the curvature of the panels is purely an ornamental feature, and it has been held that matters relating to ornamentation only, and having no mechanical function, cannot be

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relied on where claims are not directed to design but are structural claims. *In re Seid*, 73 USPQ 431.

9. Claims 10 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrock (2,718,091) in view of Taub (3,589,046).

Schrock discloses the invention substantially as claimed, as set forth above. However, Schrock does not disclose a footer integral with and movably coupled to one of the first and second panels. Taub teaches that it was known in the art to provide footers **24a**, **24b** that are integral with and movably coupled to first and second panels of a folding display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding display disclosed by Schrock with footers, as taught by Taub, in order to improve the stability of the display.

10. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellog (1,583,843) in view of Taub (3,589,046).

Kellog discloses the invention substantially as claimed, as set forth above. However, Kellog does not disclose bottom braces integral with and movably coupled to the first and second panels. Taub teaches that it was known in the art to provide bottom braces **24a**, **24b** that are integral with and movably coupled to first and second panels of a folding display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding display disclosed by Schrock with footers, as taught by Taub, in order to improve the stability of the display.

Allowable Subject Matter

11. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

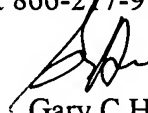
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch